

11 <sup>NOT shown, not in spec</sup> have an inner portion extending substantially along said  
12 <sup>LAB</sup> longitudinal axes, the bases cooperating at the lower end  
13 of said apparatus to maintain [it] said apparatus  
14 positionally stable [while resting thereon at or near the  
15 ground], the <sup>20,20</sup> fins further cooperating to form at least  
16 <sup>NOT shown, not in spec</sup> one channel <sup>LAB</sup> narrowing from the wider bases thereof to the  
17 narrower apexes thereof at the upper end of said bottom  
18 portion, said bottom portion being predominately of a  
19 color which reflects light having a wavelength which  
20 attracts the target insect species;  
21 said top portion of said apparatus  
22 comprising an enclosed chamber except for an entrance  
23 <sup>102</sup> opening therein positioned over and surrounding the  
24 upper end of said bottom portion [such that no portion of  
25 the entrance opening touches said fins and further] such  
26 that said at least one channel terminates within said  
27 chamber.

*conclude*

#### REMARKS

This Amendment is filed in response to the Official Action dated April 2, 1997. Claims 1-12 are pending for further Examination in this application. Claim 1 has been amended herein. In view of the amendments and remarks herein, favorable reconsideration and allowance of all claims as presently presented are respectfully requested.

Applicant notes, with appreciation, that the Examiner has indicated that Claims 5 and 7 are directed

to allowable subject matter. These claims are only objected to as being dependent on a rejected base claim.

The drawings have been objected to as allegedly failing to show every feature specified in the claims. More particularly, the Examiner contends that the feature of providing an entrance opening that does not touch the fins is not shown in the drawings. Applicant respectfully contends that this feature can be seen in Figs. 3 and 5. However, this objection is now moot in view of the fact that applicant has cancelled this feature from Claim 1 herein. Thus, withdrawal of the objection to the drawings is respectfully requested.

Claims 1-12 have been rejected under 35 USC 112, second paragraph, as being indefinite. In accordance with the Examiner's suggestion, Applicant has deleted the language "while resting thereon at or near the ground". Moreover, as explained above, Applicant has deleted the feature of not having the entrance opening touch the fins. Thus, Applicant believes that all of the present claims now fully comply with the requirements of 35 USC 112. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Claims 1-4, 6 and 9-12 have been rejected under 35 USC 103 as being obvious over Gross. For the reasons set forth below, Applicant respectfully contends that independent Claim 1, as amended herein, is not rendered obvious by Gross, whether considered alone or in combination with any of the other references of record.

Thus, reconsideration and withdrawal of the rejections under 35 USC 103 are respectfully requested.

Claim 1 expressly requires that the bottom portion of the apparatus include a plurality of elements cooperating along longitudinal axes thereof to form at least two essentially planar fins extending axially from the longitudinal axis and upwardly from wider bases to narrower apexes. This feature can be seen most clearly in Figs. 1(a), 1(b) and 3. Contrary to the Examiner's assertion, this claimed feature is not taught or suggested by Gross. First, the elements 12, 13, 14 and 15 in Gross do not cooperate along the longitudinal axes. In fact, no part of any of elements 12-15 in Gross even touch each other, much less cooperate, along the longitudinal axis of the base portion. As can be seen in Figs. 2, 3 and 9 of Gross there is nothing but open space along the longitudinal axis of the bottom portion. Moreover, elements 12-15 in Gross clearly do not form at least two essentially planar fins extending axially from the longitudinal axes and upwardly from wider bases to narrower apexes, as expressly required by Claim 1. However, in order to more clearly distinguish the teachings of Gross, Applicant has amended Claim 1 to require that the planar fins have an inner portion extending substantially along said longitudinal axes.

More importantly, Gross fails to teach or suggest the fins that cooperate to form at least one channel narrowing from the wider bases thereof to the

narrower bases thereof at the upper end of the bottom portion, as expressly required by Claim 1. Although the Examiner has stated the "the lines form a channel", the Examiner has not indicated what "lines" he is referring to in Gross or how Gross forms any channels whatsoever, much less narrowing channels as defined in Claim 1. In fact, there are no channels shown or suggested in Gross, because the elements 12-15 in Gross do not extend radially from the longitudinal axis and are provided at right angles to one another, which configuration precludes any channels from being defined therebetween. As a result, the Examiner has failed to point out any disclosure in Gross which renders this feature obvious.

In other words, Gross simply does not teach or suggest the particular combination of elements as defined in amended Claim 1 herein. Moreover, none of the other references of record make up for the deficiencies in Gross. Thus, Claim 1, as amended herein, is not rendered obvious by the cited references.

In summary, none of the cited references suggest Applicant's particular claimed combination of elements, and without the improper use, in hindsight, of the teaching of Applicant's invention, the claims are not rendered obvious in view of the teachings of Gross or any of the other references of record. Accordingly, the cited reference fails to establish a prima facie case of obviousness for amended Claim 1 herein. The mere fact that a reference cited by the Examiner may be modified

does not establish a prima facie case of obviousness absent a suggestion in the cited art of the desirability of the modification. Accordingly, the rejection of Claim 1 is not tenable. Thus, in view of the amendments and remarks herein, reconsideration and withdrawal of the rejection of Claim 1 and dependent Claims 2-4, 6 and 8-12 under 35 USC 103 are respectfully requested.

In view of the foregoing amendments and remarks, Applicant believes that all of the claims in the present application clearly and patentably distinguish the cited references and are in condition for allowance. Accordingly, reconsideration and withdrawal of the rejections and passage of the case to issue at an early date are earnestly solicited.

Should the Examiner have any questions or deem that further issues need to be resolved prior to allowance, the Examiner is invited to call the undersigned attorney at the phone number below.

Respectfully submitted,

KERKAM, STOWELL, KONDRACKI  
& CLARKE, P.C.

By: 

Dennis P. Clarke  
Reg. No. 22,549

Two Skyline Place, Suite #600  
5203 Leesburg Pike  
Falls Church, Virginia 22041  
Telephone: (703) 998-3302